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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,648	12/19/2001	Andrew Plant	Mo5158D2/LeA 32,122	4384

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EXAMINER

WRIGHT, SONYA N

ART UNIT

PAPER NUMBER

1626

DATE MAILED: 02/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/028,648	PLANT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sonya Wright	1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-9,11,12 and 14-18 is/are pending in the application.

4a) Of the above claim(s) 6-8,11,12 and 14-18 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_ is/are rejected.

7) Claim(s) 1-5 and 9 is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. 09/297,964.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

Claims 1-9, 11, 12, and 14-18 are pending in this application.

### ***Election/Restrictions***

Applicant's election with traverse of Group I, claims 1-5 and 9 and the species of 6-(4'-trifluorooxy-biphenyl-4yl)-(2,6-difluorophenyl)3,4,5,6,-tetrahydropyridine in Paper No. 5 is acknowledged.

The following generic concept as depicted in claim 1 has been identified for examination: wherein Ar1 is a phenyl substituted by R1, R2, and R3; Ar2 is a phenyl radical substituted by R4 and R5m; m is 1; n is 2; R1, R2, and R3 represent halogen, cyano, nitro, alkyl, alkoxy, halogenoalkyl, halogenoalkoxy, and alkoxyalkyl; R4 represents the group (I) –X-A wherein X represents a direct bond, and A represents phenyl mono-substituted in the 4-position by alkoxy, halogenoalkoxy, or halogenoalkenyloxy; R5 represents hydrogen, halogen, cyano, nitro, alkyl or alkoxy. The remaining subject matter of claims 1-5 and 9 in part and claims 6-8, 11, 12, and 14-18 in their entirety are withdrawn from further consideration under 37 CFR 1.142(b) as constituting other patentably distinct inventions.

The withdrawn subject matter of claims 1-5 and 9 in part and claims 6-8, 11, 12, and 14-18 in their entirety is properly restricted as said subject matter differs in structure and element from the elected subject matter so as to be patentably distinct therefrom, i.e. a reference which anticipated the elected subject matter would not even render obvious the withdrawn subject matter and fields of search are not co-extensive.

Claims 1-5 and 9 are objected to as containing non-elected subject matter. This objection may be overcome by limiting the claims to the elected subject matter supra.

***Specification***

Holes have been punched through the top of each page of the specification in order for the pages to be placed in the file wrapper. Holes have been punched through the text: Le A 32 122-Foreign Countries at the top of each page. Therefore, a new copy of the specification is needed. It is suggested that each page have a wider top margin so that holes will not be punched through the text when the pages are placed in the file wrapper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonya Wright, whose telephone number is (703) 308-4539. The examiner can normally be reached on Monday-Friday from 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (703) 308-4537. The Unofficial fax phone number for this Group is (703) 308-7922. The Official fax phone numbers for this Group are (703) 308-4556 or 305-3592.

When filing a FAX in Technology Center 1600, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for

draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-1235.



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Joseph K. McKane

Supervisory Patent Examiner

Group 1600

Sonya Wright

February 13, 2003